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DEPARTMENT OF COMMERCE

International Trade Administration

(C-533-872)

Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Department) determines that countervailable subsidies are being provided to producers and exporters of finished carbon steel flanges (flanges) from India. The period of investigation is April 1, 2015, through March 31, 2016.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Emily Maloof or Davina Friedmann, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5649, or (202) 482-0698, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 29, 2016, the Department published the *Preliminary Determination* in the *Federal Register*.¹

¹ See *Finished Carbon Steel Flanges from India: Preliminary Affirmative Countervailing Duty Determination*, 81 FR 85928 (November 29, 2016) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (PDM).

A summary of the events that occurred since the Department published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the accompanying Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document, and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Scope Comments

In accordance with the *Preliminary Determination*, the Department set aside a period of time for parties to address scope issues in case briefs or other written comments on scope issues.³ In the *Preliminary Determination*, we did not modify the scope language as it appeared in the *Initiation Notice*.⁴ No interested party submitted scope comments in case or rebuttal briefs. However, the scope description that was published in the *Initiation Notice* and in the *Preliminary Determination* contained typographical errors, which have been corrected in the scope description provided in Appendix I of this notice.⁵ Other than the correction of typographical errors, the scope of this investigation remains unchanged for this final determination.

² See Memorandum from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance "Decision Memorandum for the Preliminary Affirmative Determination: Countervailing Duty Investigation of Finished Carbon Steel Flanges from India," dated concurrently with this determination and hereby adopted by this notice (Issues and Decision Memorandum).

³ See *Preliminary Determination* and PDM at "Scope Comments."

⁴ *Id.*; see also, *Finished Carbon Steel Flanges from India: Initiation of Countervailing Duty Investigation*, 81 FR 49625 (July 28, 2016) (*Initiation Notice*).

⁵ Specifically, the Department incorrectly referenced the ASME specifications as "ASME 816.5 or ASME 816.47

Scope of the Investigation

The products covered by this investigation are finished carbon steel flanges from India. For a complete description of the scope of the investigation, *see* “Scope of the Investigation,” in Appendix I of this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs submitted by the parties, are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

Verification

The Department conducted verification of the questionnaire responses submitted by the Government of India, USK Group, and RNG between January 30, and February 10, 2017.⁶

Use of Adverse Facts Available

If necessary information is not available on the record, or an interested party withholds information, fails to provide requested information in a timely manner, significantly impedes a proceeding by not providing information, or information provided cannot be verified, the Department will apply facts available, pursuant to section 776(a)(1) & (2) of the Tariff Act of 1930, as amended (the Act). For purposes of this final determination, the Department relied, in part, on facts available. For USK Group Ltd. (Norma)⁷ and R.N. Gupta & Co. (RNG), we are

series A or series B.” The corrected scope description properly references these specifications at “ASME B16.5 or ASME B16.47 series A or series B.”

⁶ See Memoranda, “Verification Report of Norma (India) Ltd., Uma Shanker Khandelwal & Co., USK Exports Private Limited, and Bansidhar Chiranjilal,” dated March 29, 2017 (USK Group Verification Report); “Verification Report of R.N. Gupta & Co., Ltd.,” dated March 29, 2017 (RNG Verification Report); and “Verification Report of the Government of India,” dated March 29, 2017 (Government of India Verification Report).

⁷ Norma (India) Limited includes its cross-owned affiliates USK Exports Private Limited (USK), UMA Shanker Khandelwal & Co. (UMA), and Bansidhar Chiranjilal (BDCL) (collectively, USK Group). For further discussion, *see* the accompanying Issues and Decision Memorandum.

basing certain countervailing duty rates on facts otherwise available. Further, because USK Group and RNG did not act to the best of their ability in this investigation by not providing necessary information requested by the Department, we determine that an adverse inference in selecting from the facts available is warranted with respect to certain countervailable subsidy programs, pursuant to section 776(b) of the Act. The Department has, therefore, relied, in part, on adverse facts available (AFA) in calculating the subsidy rates for both mandatory respondents.

Regarding USK Group, we determine that application of AFA is warranted with regard to one lending program for importing capital equipment.⁸ Concerning RNG, we determine that the application of AFA is warranted with regard to two programs, *i.e.*, capital equipment purchases and export financing. Because the Government of India did not provide the requested information, as AFA, we find that each of the programs meet the financial contribution and specificity criteria outlined under sections 771(5)(D) and 771(5A) of the Act, respectively.⁹ As AFA, we also find that these subsidy programs confer a benefit under section 771(5)(E) of the Act and 19 CFR 351.519.

For further information on the Department's application of AFA, as summarized above, *see* the section titled, "Use of Facts Otherwise Available and Adverse Inferences," in the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of the comments received from parties and the minor corrections presented, as well as additional items discovered at verification, we made certain changes to the respondent's subsidy rate calculations set forth in the *Preliminary Determination*. For a

⁸ For further discussion, *see* USK Group's Final Calculation Memorandum.

⁹ *See, e.g., Supercalendered Paper from Canada: Final Affirmative Countervailing Duty Determination*, 80 FR 63535 (October 20, 2015), and accompanying IDM at 17-20, 153-154.

discussion of these changes, *see* the Issues and Decision Memorandum and the Final Calculation Memoranda.¹⁰

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for each exporter/producer of the subject merchandise individually investigated, *i.e.*, Norma (India), Ltd. and R.N. Gupta & Co. In accordance with section 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an “all-others” rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as mandatory respondents by those companies’ exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the “all-others” rate excludes zero and *de minimis* rates calculated for the exporters and producers individually investigated as well as rates based entirely on facts otherwise available. Where the rates for the individually investigated companies are all zero or *de minimis*, or determined entirely using facts otherwise available, section 705(c)(5)(A)(ii) of the Act instructs the Department to establish an “all-others” rate using “any reasonable method.” Where the countervailable subsidy rates for all of the individually investigated respondents are zero or *de minimis* or are based on total AFA, the Department’s practice, pursuant to 705(c)(5)(A)(ii), is to calculate the all others rate based on a simple average of the zero or *de minimis* margins and the margins based on total AFA.

Pursuant to section 705(c)(5)(A)(i) of the Act, we have calculated the “all-others” rate using the subsidy rates of the two individually investigated respondents. However, we have not calculated the “all-others” rate by weight-averaging the rates because doing so risks disclosure of

¹⁰ *See* Issues and Decision Memorandum; *see also* Memorandum, “Final Determination Calculations for Norma (India) Ltd.,” dated June 23, 2017 (Norma’s Final Calculation Memorandum); *see also* Memorandum, “Final Determination Calculation Memorandum of RNG,” dated June 23, 2017 (RNG’s Final Calculation Memorandum).

proprietary information. Therefore, consistent with the Department's practice,¹¹ for the "all others" rate, we calculated a simple average of the two mandatory respondents' subsidy rates.

The final subsidy rates are as follows:

Exporter/Producer	Subsidy Rate (percent)
Norma (India), Ltd. ¹²	5.66 percent
R.N. Gupta & Co.	9.11 percent
All-Others	7.39 percent

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of any entries of merchandise under consideration from India that were entered or withdrawn from warehouse, for consumption, on or after November 29, 2016, which is the publication date in the *Federal Register* of the *Preliminary Determination*. Therefore, in accordance with section 703(d) of the Act, we issued instructions to CBP to suspend liquidation of all entries of steel flanges from India that are entered, or withdrawn from warehouse, for consumption, on or after November 29, 2017 through March 28, 2017. Additionally, we instructed CBP to discontinue the suspension of liquidation for countervailing duty purposes for subject merchandise entered, or withdrawn from warehouse, on or after March 29, 2017 in accordance with section 703(d)(3) of the Act.

¹¹ See e.g., *Countervailing Duty Investigations of Certain Amorphous Silica Fabric from the People's Republic of China: Final Affirmative Determination*, 82 FR 8405 (January 25, 2016).

¹² As discussed in the Preliminary Determination, the Department found the following companies to be cross-owned with Norma (India), Ltd.: Uma Shanker Khandelwal & Co. (UMA), USK Exports Private Limited (USK), and Bansidhar Chiranjilal (BDCL).

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, instruct CBP to reinstate suspension of liquidation under section 706(a) of the Act, and will require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited as a result of the suspension of liquidation will be refunded or canceled.

U.S. International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Acting Assistant Secretary for Enforcement and Compliance.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i)(1) of the Act and 19 CFR 351.210.

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

Dated: June 23, 2017

Appendix I

Scope of the Investigation

The scope of this investigation covers finished carbon steel flanges. Finished carbon steel flanges differ from unfinished carbon steel flanges (also known as carbon steel flange forgings) in that they have undergone further processing after forging, including, but not limited to, beveling, bore threading, center or step boring, face machining, taper boring, machining ends or surfaces, drilling bolt holes, and/or deburring or shot blasting. Any one of these post-forging processes suffices to render the forging into a finished carbon steel flange for purposes of this investigation. However, mere heat treatment of a carbon steel flange forging (without any other further processing after forging) does not render the forging into a finished carbon steel flange for purposes of this investigation.

While these finished carbon steel flanges are generally manufactured to specification ASME B16.5 or ASME B16.47 series A or series B, the scope is not limited to flanges produced under those specifications. All types of finished carbon steel flanges are included in the scope regardless of pipe size (which may or may not be expressed in inches of nominal pipe size), pressure class (usually, but not necessarily, expressed in pounds of pressure, *e.g.*, 150, 300, 400, 600, 900, 1500, 2500, *etc.*), type of face (*e.g.*, flat face, full face, raised face, *etc.*), configuration (*e.g.*, weld neck, slip on, socket weld, lap joint, threaded, *etc.*), wall thickness (usually, but not necessarily, expressed in inches), normalization, or whether or not heat treated. These carbon steel flanges either meet or exceed the requirements of the ASTM A105, ASTM A694, ASTM A181, ASTM A350 and ASTM A707 standards (or comparable foreign specifications). The scope includes any flanges produced to the above-referenced ASTM standards as currently stated or as may be amended. The term “carbon steel” under this scope is steel in which: (a) Iron predominates, by weight, over each of the other contained elements: (b) The carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

- (i) 0.87 percent of aluminum;
- (ii) 0.0105 percent of boron;
- (iii) 10.10 percent of chromium;
- (iv) 1.55 percent of columbium;
- (v) 3.10 percent of copper;
- (vi) 0.38 percent of lead;
- (vii) 3.04 percent of manganese;
- (viii) 2.05 percent of molybdenum;

- (ix) 20.15 percent of nickel;
- (x) 1.55 percent of niobium;
- (xi) 0.20 percent of nitrogen;
- (xii) 0.21 percent of phosphorus;
- (xiii) 3.10 percent of silicon;
- (xiv) 0.21 percent of sulfur;
- (xv) 1.05 percent of titanium;
- (xvi) 4.06 percent of tungsten;
- (xvii) 0.53 percent of vanadium; or
- (xviii) 0.015 percent of zirconium.

Finished carbon steel flanges are currently classified under subheadings 7307.91.5010 and 7307.91.5050 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also be entered under HTSUS subheadings 7307.91.5030 and 7307.91.5070. The HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
 - II. Background
 - III. Period of Investigation
 - IV. Scope Comments
 - V. Scope of the Investigation
 - VI. Subsidies Valuation Information
 - VII. Benchmarks and Interest Rates
 - VIII. Use of Facts Otherwise Available and Adverse Inferences
 - IX. Analysis of Programs
 - A. Programs Determined to be Countervailable
 - B. Programs Determined to be Not Used
 - X. Discussion of the Issues
 - Comment 1: Whether the Department Should Have Rejected the Government of India's Supplemental Questionnaire Response
 - Comment 2: Whether the Duty Drawback (DDB) Program Provides a Countervailable Subsidy
 - Comment 3: Whether R.N. Gupta & Co., Ltd. (RNG) and USK Group Should Report Duty Export Pass Book (DEPB) Licenses During the Average Useful Life (AUL) Period Prior to the Period of Investigation (POI)
 - Comment 4: Whether USK Group and RNG Received Benefits from Certain Government of India Majority-Owned Banks
 - Comment 5: Whether the Export Promotion of Capital Goods Scheme (EPCGS) Provides a Countervailable Subsidy and Whether the EPCGS Used the Correct Denominator for the Benefit Calculation of Respondents
 - Comment 6: Whether to Apply Adverse Facts Available (AFA) to Norma's AUL Sales Data
 - Comment 7: Whether to Apply AFA to RNG's Unaffiliated Indian Suppliers of Subject Merchandise
 - Comment 8: Whether to Countervail Funds Received by RNG Under the Focus Product Scheme (FPS) During the POI
 - XI. Recommendation
- [FR Doc. 2017-13628 Filed: 6/28/2017 8:45 am; Publication Date: 6/29/2017]